

LAND REGISTRATION

REGISTRATION OF ENCUMBRANCES AFFECTING REGISTERED LAND

Effect of Objections to the Validity of the Contract Sought to be Registered.

FACTS: An Appeal prosecuted by the respondents-appellants against an order of the Court of First Instance of Manila compelling them to surrender owner's duplicates of Transfer Certificates of Title so that the contract of lease entered into between petitioners-appellees and the owner of the land covered by the above-mentioned certificates of title be annotated thereon. A mortgage in favor of respondents was executed and was existing at the time the contract of lease was entered into. Petition was made for the delivery of the owner's duplicates of TCT to which opposition was made by respondents on the grounds that they had no knowledge of the contract of lease and that the execution of the amendment violated the express provision of the mortgage, to the effect that the owner could not sell, assign or encumber the mortgaged promises without the written consent of the mortgagees, that their mortgage has priority and that their rights and interests will be prejudiced.

HELD: The objections interposed by respondents are beside the issue. The purpose of registering an instrument is to give notice thereof to all persons; it is not intended by the proceedings for registration to seek to destroy or otherwise affect already registered rights over the land, subsisting or existing at the time of the registration. The objections shall be decided in the proper suit or proceeding when the opportune occasion arises; they cannot be adjudicated upon, simply because petitioners-appellees have applied for the registration of their contract of lease.

As a necessary consequence, registration must first be allowed, and validity or effect of the contracts of lease, the registration of which is opposed by respondents, may be litigated afterwards. (GUR-

BAX SINGH PABLA & Co. ET ALS. vs. HON. HERMOGENES REYES ET AL., G. R. No. L-3970, Oct. 29, 1952.)

LEGAL INCIDENTS OF REGISTERED LANDS

Adverse Claims. Claims prior to the original registration cannot be entered upon the Torrens Title. Sec. 110, Act No. 496.

FACTS: The title to four parcels of land were confirmed and Torrens Title was issued in favor of petitioner-appellees. H. R. kept the owner's duplicate of title. Subsequently G. R. one of the registered owners, demanded the owner's duplicate of title from H. R., who refused. Petitioners-appellees petitioned the Court to order H. R. to deliver the title. H. R.'s reason for not delivering the title was that he held an adverse right of interest against the registered owners which claim was registered in the Torrens Title. The court ordered that the adverse claim of H. R. was invalid and directed the cancellation of the same. It also ordered H. R. to deliver the owner's duplicate of original certificate of title to the registered owners. H. R. appealed.

HELD: The loan made by H. R. to the parents of the registered owners was six years ahead of the issuance of the Torrens Title. The claim of H. R., being prior and not subsequent to the date of registration, cannot be entered upon the Torrens Title; it does not entitle him to retain possession of said certificate of title. If he has a valid claim, he should bring an action to enforce it. (GRACIANO DE LOS REYES ET ALS. vs. HILARIO DE LOS REYES, G. R. No. L-4116, June 30, 1952.)

Cancellation of Notice of lis pendens on Certificate; Section 112, Act No. 496.

FACTS: Petition filed by applicants-appellants in the original registration proceedings in accordance with section 112 of Act No. 496, praying for the cancellation of a notice of *lis pendens* on the back of the certificate of title on the ground that the judgment rendered in the civil case to which said notice refers has been satisfied. Appellee opposes alleging that the quit-claim presented by the appellants in support of their petition signed by appellee's attorney and acknowledging the receipt of P5,000 in satisfaction of

the judgment in the civil case was signed by appellee's attorney without the authority, knowledge, or consent of the appellee.

Held: The issue raised has reference to the alleged satisfaction of the judgment in the civil case to which the notice of *lis pendens* refers. Said issue should be ventilated in an ordinary action because there is a substantial controversy between the parties. (JESUS GARCHITORENA ET AL. vs. DIRECTOR OF LANDS ET AL., G. R. No. L-4011, April 28, 1952.)

PUBLIC LAND LAW

Effect of registration of homestead patent under the Torrens System: Cancellation of the same barred after ten years.

A homestead patent registered under the Registration Act, becomes indefeasible as a Torrens Title if the agricultural land granted or patented by the government after the requisites of law have been complied with was a part of the public domain. If it was a private land, the patent granted and the Torrens Title issued upon the patent is a nullity.

A Torrens title issued upon a free patent may not be cancelled after the lapse of 10 years from the date of its registration, because barred by the Statute of Limitation. But if the registered owner whether as patentee or successor-in-interest knew that such land belonged to another and that defendant or his successor in interest had never been in possession, the Statute of Limitation does not apply, and the court may, in the exercise of its equity jurisdiction order the defendant to reconvey the land to its true owner without ordering the cancellation of the Torrens Title.

Defendant cannot avail of the statute of limitation barring plaintiff from bringing an action to cancel the Torrens title because a motion to dismiss is an admission of all the material allegations of the plaintiff's complaint that defendant knew that plaintiff and his successor in interest have been in possession of the land since time immemorial and that defendant or his successor in interest was never in possession of such land. But if defendant should prove that he and his successor in interest have been in possession for 10 years or more, complaint would be dismissed. (MONTANO VITAL vs. FRANCISCO ANORE ET AL., G. R. No. L-4136, February 29, 1952.)

Liability of public land applicant for real estate tax on land applied for; Power of Provincial Treasurer to sell public land for tax delinquency after the cancellation of the application to purchase said land; scope of Section 113 of Act 2874.

After the sale of a parcel of public land has been cancelled by reason of the applicant's failure to pay the first and second installments of the purchase price, said applicant is no longer legally bound to pay any real estate tax on the property covered by the sales application and, therefore, his failure to pay said tax could not amount to a delinquency that warranted the sale of the land by the provincial treasurer, even assuming that actual reversion of the land to the public domain can take place only after a judicial pronouncement since this point is immaterial.

Section 113 of Act No. 2874 (similar to sec. 115 of Act 194) should be interpreted only in the sense that the grantee is required to pay the ordinary taxes as long as the application subsists and before it is cancelled. (THE DIRECTOR OF LANDS vs. ZACARIAS LIM ET AL., G. R. No. L-4372, April 30, 1952.)

Right of redemption under the Public Land Act; commencement of the five-year period.

FACTS: Despite the purchase of a parcel of land covered by a homestead patent in an auction sale by the PNB and its subsequent conveyance to MP, the original owners continued in possession of the property and presumably in the enjoyment of the fruits thereof. Because of this MP filed an action in the lower court to have himself declared absolute owner and to obtain possession of the said land. The lower court rendered a decision annulling the auction sale on foreclosure on the ground that it was not held in the place required by law and also because the inadequacy of the price of ₱400.00 paid by the Bank was shocking to the conscience. MP appealed to the Court of Appeals who disagreed with the trial court as to the annulment of the auction sale, and considered that sale valid, but held that respondent LL had offered to repurchase the land within the five-year period provided by the Public Land Act. MP appealed to the Supreme Court.

Held: The five-year period within which a homesteader or his widow or heirs may repurchase a homestead sold at public auction

or foreclosure sale under Act 3135 as amended, begins not at the date of the sale when merely a certificate is issued by the sheriff or other official, but rather on the day after the expiration of the period of repurchase, when the deed of absolute sale is executed and the property formally transferred to the purchaser. Decision affirmed. (PARAS *vs.* COURT OF APPEALS, G. R. No. L-4091, Prom. May 28, 1952.)

POLITICAL LAW

State immunity from suit; suit against an unincorporated government agency engaged in business.

FACTS: The Philippine Airlines, Inc. (PAL) is being sued by the Capitol Subdivision, Inc., as owner of the land used by the National Airports Corporation (NAC) as airport, for landing and parking fees. The PAL countered with a third-party complaint against the NAC, which by that time had been dissolved, and served summons on the Civil Aeronautics Administration (CAA). The PAL alleged that it had paid to the NAC the fees claimed by the Capitol Subdivision, Inc. The Solicitor-General filed a motion to dismiss the third-party complaint on the ground of lack of jurisdiction, first, because the NAC "has lost its juridical personality," and, second, because the CAA "being an office or agency of the Republic of the Philippines, unincorporated and not possessing juridical personality under the law, is incapable of suing and being sued."

HELD: The Supreme Court, after mentioning some of the powers of the CAA said: "These provisions confer upon the CAA, in our opinion, the power to sue and be sued. The power to sue and be sued is implied from the power to transact private business. And if it has the power to sue and be sued on its behalf, the CAA with greater reason should have the power to prosecute and defend suits for and against the NAC, having acquired all the properties, funds and choses in action and assumed all the liabilities of the latter. To deny the NAC's creditors access to the courts of justice against the CAA is to say that the government could impair the obligation of its corporations by the simple expedient of converting them into unincorporated agencies.

Not all government entities, whether corporate or non-corporate, are immune from suits. Immunity from suits is determined by the character of the objects for which the entity was organized.¹ The CAA comes under the category of a private entity. Although not a body corporate, it was created, like the NAC, not to maintain a

¹ Citing 59, C. J., p. 313.